

# January 2006

## Update: Traffic Benchbook— Third Edition, Volume 1

### CHAPTER 1

#### Required Procedures for Civil Infractions

##### Part B—The Citation

#### 1.5 Traffic Citations

Effective January 1, 2006, MCR 4.101(A)(3), which prohibited use of a single citation to allege a misdemeanor and a civil infraction, was eliminated. Near the top of page 7, delete the two lines of text immediately before the last paragraph.

## CHAPTER 1

### Required Procedures for Civil Infractions

#### Part B—The Citation

##### 1.5 Traffic Citations

###### B. Signed Under Oath

Effective January 1, 2006, dismissal of an unsigned citation is discretionary rather than mandatory. Near the middle of page 9, replace the third sentence in the second full paragraph with the following language:

If the citation is not signed and filed on paper when required by the court, the citation may be dismissed with prejudice. MCR 4.101(F)(1).\*

\*Formerly  
MCR  
4.101(E)(1).  
Some subrules  
were relettered  
as a result of  
amendments  
effective  
January 1,  
2006.

## CHAPTER 1

### Required Procedures for Civil Infractions

#### Part B—The Citation

#### 1.6 Issuing and Filing the Citation

##### B. Serving and Filing the Citation

Separate amendments to MCR 4.101(A) added a provision that specifies the individuals who are permitted to amend a violation alleged on a citation. Insert the following text after the first full paragraph on page 11:

“A violation alleged on a citation may not be amended except by the prosecuting official or a police officer for the plaintiff.” MCR 4.101(A)(2).\*

\*Effective  
January 1,  
2006.

## CHAPTER 1

### Required Procedures for Civil Infractions

#### Part D—Informal Hearings

##### 1.14 The Informal Hearing

###### A. Failure of Officer to Appear

Effective January 1, 2006, MCR 4.101 was amended to address a police officer's obligation to appear at informal hearings. At the bottom of page 18, replace the text in this subsection with the following language:

A police officer is required to appear at an informal hearing requested by a defendant to whom the officer issued a citation. MCR 4.101(C)(2). Unless an officer's absence is excepted as provided by the rule, the court must dismiss without prejudice any case at which the issuing officer fails to appear. *Id.* In its entirety, MCR 4.101(C) states:

“(C) Appearance by Police Officer at Informal Hearing.

“(1) If a defendant requests an informal hearing, the court shall schedule an informal hearing and notify the police officer who issued the citation to appear at the informal hearing.

“(2) The attendance of the officer at the hearing may not be waived.

“Except when the court is notified before the commencement of a hearing of an emergency preventing an on-duty officer from appearing, failure of the police officer to appear as required by this rule shall result in a dismissal of the case without prejudice.” MCR 4.101(C)(1)–(2).

## CHAPTER 3

### Misdemeanor Traffic Offenses

#### Part A—Introduction

#### 3.6 Minimum State Costs for Misdemeanor Traffic Offenses

Effective January 1, 2006, 2005 PA 184 added several offenses to the list of “serious misdemeanors” in MCL 780.811(a). Near the top of page 100, replace the first two sentences of the second full paragraph with the following language:

“**Serious misdemeanors**” are listed in MCL 780.811(1)(a)(i)–(xix). There are two “serious misdemeanors” discussed in this chapter: (1) leaving the scene of a personal-injury accident, MCL 257.617a; and (2) injuring a worker in a work zone, MCL 257.601b(2).\*

\*See Sections 3.15 and 3.47, respectively.